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Candace Havens
Director

MEMORANDUM

Public Hearing Date: September 13, 2011
Land Use Action Date: November 22, 2011
Board of Aldermen Action Date: December 5, 2011
90-Day Expiration Date: December 6, 2011

DATE: September 9, 2011

TO: Board of Aldermen

FROM: Candace Havens, Director of Planning and Development
Eve Tapper, Chief Planner for Current Planning ET
Derek Valentine, Senior Land Use Planner

SUBJECT: Petition #212-11, MATTHEW S. & RENEE L. LEVIN petition for a SPECIAL PERMIT/SITE PLAN APPROVAL to EXTEND A NONCONFORMING STRUCTURE to create a garage, an indoor basketball court and game room in an existing detached carriage house at 28 SARGENT STREET, Ward 7, on land known as SBL 73, 8, 10 containing approx. 47,090 sq. ft. of land in a district zoned SINGLE RESIDENCE 1. Ref: 30-24, 30-23, 30-21(b) of the City of Newton Rev Zoning Ord, 2007.

The purpose of this memorandum is to provide the Board of Aldermen and the public with technical information and planning analysis which may be useful in the special permit decision making process of the Board of Aldermen. The Planning Department's intention is to provide a balanced view of the issues with the information it has at the time of the public hearing. There may be other information presented at or after the public hearing that the Land Use Committee of the Board of Aldermen will want to consider in its discussion at a subsequent Working Session.



EXECUTIVE SUMMARY

The subject property consists of 47,090 square feet of land in a Single Residence 1 zone. It is improved with a single-family residence as well as a large detached carriage house. There are no changes proposed to the main residence, but the petitioner would like to expand the existing carriage house, which is currently nonconforming with respect to ground floor area, building height, and number of stories to 3,026 square feet. The newly-expanded carriage house would feature two garage bays, a basketball court and a game room.

The existing carriage house has a ground floor area of 1,282 square feet, where 700 square feet is allowed by right. The structure is 30.1 feet tall, where a maximum height of 22 feet is allowed by right. The ground floor area would increase to 1,755 square feet as part of this petition, but the nonconforming building height would not increase.

An accessory structure can be one and one half stories by right. A half story is defined by Section 30-1 as a "story directly under a sloping roof where the area directly under with a ceiling height of 7' or greater is less than 2/3rds the area of the story below." Based on the petitioner's calculations, the accessory structure qualifies as a nonconforming two-story structure. The proposed addition represents an expansion of this nonconformity.

I. SIGNIFICANT ISSUES FOR CONSIDERATION:

1. When reviewing this petition, the Board should consider whether the expansion and extension of an accessory structure, which is nonconforming with regard to ground floor area, building height, and number of stories is not substantially more detrimental to the neighborhood than the existing structure for the following reasons:
 - a. The structure is located at the rear of a large 47,090 square foot lot, is well screened, and will not have a significant visual impact on surrounding properties or public right of ways.
 - b. The expansion allows the adaptive reuse and restoration of a large accessory structure, which may otherwise deteriorate if unused.
 - c. The architectural design of the addition is consistent with the historic style and has been approved by the Senior Preservation Planner.

II. CHARACTERISTICS OF THE SITE AND NEIGHBORHOOD

A. Neighborhood and Zoning

The site is located between Waverly Avenue and Park Street. It is in a neighborhood which is zoned exclusively Single Residence 1. Most properties in the neighborhood are currently in this permitted use. Sargent Street is characterized by large residential parcels; most ranging from 25,000-40,000 square feet. Several of these properties feature large outbuildings, similar to the accessory structure that is the subject of this special permit.

B. Site

The site consists of 47,090 square feet of land. The site is lightly wooded and is improved with a single-family residence and large, historic carriage house. A bituminous driveway leads to the rear of the property where the carriage house is located.

III. PROJECT DESCRIPTION AND ANALYSIS

A. Land Use

The property will remain in single-family residential use.

B. Building and Site Design

An 874 square-foot addition is proposed on the west side of the existing carriage house. The new floor plan of the carriage house would consist of a basketball court bathroom, and two-car garage on the first floor, with recreational space on the second floor. A portion of the second floor would be open to and overlooking the basketball court below.

New dormers are proposed on the east and west ends of the existing carriage house to provide increased head room for the second floor recreational space. The new dormers have been designed to mimic the style and dimensions of the existing dormer.

C. Parking and Circulation

The property is serviced by a circular driveway and an extension that leads to the carriage house at the rear of the property. No changes are proposed to the vehicular circulation on the property as part of this petition.

D. Landscape Screening

No additional landscaping is proposed as part of this petition. None is required,

since the carriage house is well-screened and located on a large lot.

IV. TECHNICAL REVIEW

A. Technical Considerations

The carriage house is nonconforming with respect to ground floor area, building height, and number of stories. The proposed addition will extend these nonconformities and as a result requires relief under Newton Zoning Ordinance Section 30-21(b).

B. Newton Historical Commission.

The Senior Preservation Planner has reviewed the proposed changes and has approved them administratively. The proposed renovations are historically sensitive and incorporate appropriate period materials. In addition, the Commission supports the creative reuse of historic structures such as this one, which are quickly disappearing in the City.

C. Engineering Review.

The Engineering Division of the Department has submitted a Memorandum dated September 6, 2011. This memo notes that the increase in impervious coverage proposed is 536 square feet on a parcel of over an acre. Department of Public Works has a policy that requires drainage improvements only when the increase in impervious coverage exceeds 800 square feet on lots that are greater than 20,000 square feet.

The Engineering Division requires that the petitioner show water and sewer service on the plan if they are already in place, otherwise the petitioner should show where the new water and sewer service is proposed. This plan should be submitted for final Engineering Division review.

V. ZONING RELIEFS SOUGHT

Based on the completed Zoning Review Memorandum ("ATTACHMENT C"), the petitioner is seeking the following reliefs:

- Section 30-21(b) To allow an extension of an accessory structure that is nonconforming with regard to ground floor area, building height, and number of stories.

VI. PETITIONERS' RESPONSIBILITIES

The petition is complete at this time.

ATTACHMENTS:

ATTACHMENT A: VICINITY ZONING MAP

ATTACHMENT B: VICINITY LAND USE MAP

ATTACHMENT C: ZONING REVIEW MEMO

ATTACHMENT D: ENGINEERING DIVISION MEMO

ATTACHMENT E: DRAFT BOARD ORDER #212-11

28 Sargent St. Zoning

*City of Newton,
Massachusetts*



The information on this map is from the Newton Geographic Information System (GIS). The City of Newton cannot guarantee the accuracy of this information. Each user of this map is responsible for determining its suitability for his or her intended purpose. City departments will not necessarily approve applications based solely on GIS data.

CITY OF NEWTON, MASSACHUSETTS
 Mayor - Setti D. Warren
 GIS Administrator - Douglas Greenfield



ATTACHMENT A



28 Sargent St. Land Use

*City of Newton,
Massachusetts*



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CITY OF NEWTON, MASSACHUSETTS
 Mayor - Seth D. Warren
 GIS Administrator - Douglas Greenfield

0 12.5 25 50 75 100 125 150
 Feet

Map Date: September 07, 2011

ATTACHMENT B





Setti D. Warren
Mayor

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Candace Havens
Director

ZONING REVIEW MEMORANDUM

Date: June 28, 2011

To: John Lojek, Commissioner of Inspectional Services

Fr: Seth Zeren, Chief Zoning Code Official
Eve Tapper, Chief Planner for Current Planning ET

Cc: Dean Poritzky, representing the applicant
Candace Havens, Director of Planning and Development
Ouida Young, Associate City Solicitor

RE: Request to allow an extension of a nonconforming accessory structure

Applicant: Renee Levin	
Site: 28 Sargent Street	SBL: 7308 0010
Zoning: SR1	Lot Area: 46,990 square feet
Current use: Single-family dwelling	Proposed use: Single-family dwelling

Background:

The subject property consists of a 46,990 square foot lot located in the SR1 zone currently improved with a single-family dwelling and a detached carriage house. The applicant proposed to expand the existing nonconforming carriage house to create a garage, an indoor basketball court, and a game room.

The following review is based on plans and materials submitted to date as noted below.

- Architectural plans of proposed, D. Michael Collins Architects, unsigned, unstamped, and undated
 - Foundation and First Floor Plan
 - Roof Plan and Second Floor Plan
 - Front Elevation and Right Side Elevation
 - Rear Elevation and Left Side Elevation
- Site plan signed and stamped by John R. Hamel, Surveyor, dated 5/10/11
- A letter with calculations of first and second floor area for the existing and proposed structures, signed by D. Michael Collins, Architect, dated 6/16/11, with drawings of existing and proposed second floor plan

ADMINISTRATIVE DETERMINATIONS:

1. The property is in the SR1 zone and must comply with the dimensional standards of Section 30-15, Table 1 for a pre-1953 lot and Section 30-15(m) for accessory structures (see chart below).

SR1 Zone	Required/Allowed	Existing	Proposed
Lot Size	15,000 square feet	47,090 square feet	No change
Frontage	100 feet	138.9 feet	No change
Accessory Structure, Ground Floor Area	700 square feet	1,282 square feet	1,755 square feet
Accessory Structure Setbacks			
• Front	25 feet	267 feet*	No change
• Side	5 feet	22.5 feet*	5.7 feet
• Rear	5 feet	23.5 feet	No change
FAR	.26**	.21**	.23**
Accessory Structure Building Height	22 feet	30.1 feet	No change
Accessory Structure Maximum Stories	1.5	2	No change
Max. Lot Coverage	20%	12.4%	13.4%
Min. Open Space	65%	70.0%	69.0%

* As measured from the site plan

** Per the new regulations set to go into effect on October 15. Under the current FAR rules, the property has an allowed FAR of .25, but accessory structures do not count towards FAR. Therefore, the exiting FAR is .17

2. An accessory structure is allowed one and a half stories. A half story, per Section 30-1 is a “story directly under a sloping roof where the area with a ceiling height of 7’ or greater is less than 2/3rds the area of the story next below.” The applicant has calculated the second-floor area for both the existing and proposed structure, as summarized in the following table.

Carriage House	Existing (square feet)	Proposed (square feet)
First Floor	1,282	1,755
Second Floor	870	1,271
Percent Second/First Floor	67.9%	72.4%

Based upon this calculation, the existing structure qualifies as a nonconforming, two-story structure and the proposed structure represents an extension of that nonconformity. In order to build this addition as proposed, the applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b).

3. The existing accessory structure is also nonconforming with regard to ground floor area and building height. The applicant’s plan shows an addition to the structure that enlarges the nonconforming ground floor area and extends the building height over the addition. The applicant must obtain a special permit from the Board of Aldermen per Section 30-21(b) to construct the addition as proposed.

4. See "Zoning Relief Summary" below:

Zoning Relief Required		
<i>Ordinance</i>	<i>Structure</i>	<i>Action Required</i>
§30-21(b)	Allow an expansion and extension of an accessory structure that is nonconforming with regard to ground floor area, building height, and number of stories	S.P. per §30-24

**CITY OF NEWTON
ENGINEERING DIVISION**

MEMORANDUM

To: Alderman Ted Hess-Mahan, Land Use Committee Chairman

From: John Daghljan, Associate City Engineer

Re: Special Permit – #28 Sargent Street

Date: September 6, 2011

CC: Lou Taverna, PE City Engineer (via email)
Linda Finucane, Associate City Clerk (via email)
Eve Tapper, Chief Planner (via email)
Derek Valentine, Planner (via email)

In reference to the above site, I have the following comments for a plan entitled:

Permit Plan

Newton, MA

Prepared by: Snelling & Hamel Associates, Inc.

Dated: May 10, 2011

Executive Summary:

The applicant is proposing an addition of [31' x 17'] to an existing carriage house that will add approximately 536 square feet of additional impervious surface to the lot. The DPW policy for requiring on site drainage improvements for lot size of 20,000 square feet or greater is 800 square feet; since the proposed work is below this threshold and the lot size is over one-acre; no required drainage improvements are necessary. However DPW does encourage homeowners to utilize runoff from roofs for usage in gardens and lawn areas via rain barrels.

The plan does not indicate how domestic water and sanitary sewer service(s) will be provided to the carriage house. If they currently exist, then they should be shown on a site plan when the applicant applies for a Building Permit with Inspectional Services Department. If the respective utilities need to be extended to the carriage house, then the applicant will have to submit a plan for a utility connection permit to the Engineering Division. The DPW does allow that both domestic water and sanitary sewer services maybe extended from the main house provided they comply with the City's Construction Standards.

General:

1. As of January 1, 2009, all trench excavation contractors shall comply with Massachusetts General Laws Chapter 82A, Trench Excavation Safety Requirements, to protect the general public from unauthorized access to unattended trenches. Trench Excavation Permit required. This applies to all trenches on public and private property. *This note shall be incorporated onto the plans*
2. The applicant will have to apply for a Building Permits with the Department of Inspectional Service prior to any construction.
3. Prior to Occupancy permit being issued, an As-Built Plan shall be submitted to the Engineering Division in both digital format and in hard copy. The plan should show all utilities and final grades, any easements and final grading. *This note must be incorporated onto the site plan.*
4. If a Certificate of Occupancy is requested prior to all site work being completed, the applicant will be required to post a Certified Bank Check in the amount to cover the remaining work. The City Engineer shall determine the value of the uncompleted work. *This note must be incorporated onto the site plan.*

Note: If the plans are updated it is the responsibility of the Applicant to provide all City Departments [Conservation Commission, ISD, and Engineering] involved in the permitting and approval process with complete and consistent plans.

If you have any questions or concerns please feel free to contact me @ 617-796-1023.

DRAFT
#212-11

CITY OF NEWTON
IN BOARD OF ALDERMEN
September 13, 2011

ORDERED:

That the Board, finding that the public convenience and welfare will be substantially served by its action, that the use of the site will be in harmony with the conditions, safeguards and limitations set forth in the Zoning Ordinance, and that said action will be without substantial detriment to the public good, and without substantially derogating from the intent or purpose of the Zoning Ordinance, grants approval of the following SPECIAL PERMIT/SITE PLAN APPROVAL and to EXTEND A NONCONFORMING STRUCTURE to create a garage, an indoor basketball court and game room in an existing detached carriage house, as recommended by the Land Use Committee for the reasons given by the Committee through its Chairman Ted Hess-Mahan:

1. The expansion and extension of an accessory structure, that is nonconforming with regard to ground floor area, building height, and number of stories is not substantially more detrimental to the neighborhood than the existing structure for the following reasons:
 - a. The structure is located at the rear of a large 47,090 square foot lot, is well screened, and will not have a significant visual impact on surrounding properties or public right of ways.
 - b. The expansion allows the adaptive reuse and restoration of a large accessory structure, which may otherwise deteriorate if unused.
 - c. The architectural design of the addition is consistent with the historic style and has been approved by the Senior Preservation Planner.

PETITION NUMBER: #212-11

PETITIONER: Matthew and Renee Levin

LOCATION: 28 Sargent Street, Section 73, Block 8, Lot 10 containing approximately 47,090 sq. ft. of land

OWNER: Matthew and Renee Levin

ADDRESS OF OWNER: PO BOX 237, Portsmouth, NH 03802

TO BE USED FOR: Addition carriage house at a single family residence

CONSTRUCTION: Wood frame

EXPLANATORY NOTES: Section 30-21(b) To allow an extension of an accessory structure that is nonconforming with regard to ground floor area, building height, and number of stories.

ZONING: Single Residence 1 District

Approved subject to the following conditions:

1. All buildings, parking areas, driveways, walkways, landscaping and other site features associated with this special permit/site plan approval shall be located and constructed consistent with:
 - "Permit Plan for 28 Sargent Street in Newton, MA.," dated May 10, 2011, signed and stamped by John R. Hamel, Professional Land Surveyor.
 - Architectural drawings as follows "28 Sargent Street , Newton, MA," all drawn by D. Michael Collins Architecture and dated June 2, 2011, including the following sheets:
 - "First Floor Plan"
 - "Second Floor Plan"
 - Architectural drawings as follows "28 Sargent Street , Newton, MA," all drawn by D. Michael Collins Architecture and dated June 2, 2011, and revised July 13, 2011 including the following sheets:
 - "Front and Right Side Elevation"
 - "Rear and Left Side Elevation"
2. No building permit shall be issued pursuant to this special permit/site plan approval until the petitioner has:
 - a. Recorded a certified copy of this board order for the approved Special Permit/Site Plan with the Registry of Deeds for the Southern District of Middlesex County.
 - b. Filed a copy of such recorded board order with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development.
 - c. Obtained a written statement from the Planning Department that confirms the building permit plans are consistent with plans approved in Condition #1.

3. No occupancy permit for the use covered by this special permit/site plan approval shall be issued until the petitioners have:
 - a. Filed with the City Clerk, the Department of Inspectional Services, and the Department of Planning and Development a statement by a registered architect or engineer certifying compliance with Condition #1.
 - b. Submitted to the Department of Inspectional Services, and the Department of Planning and Development a final as-built survey plan in paper and digital format.